

Nuclear Regulatory Commission

§ 2.402

§ 2.206 Requests for action under this subpart.

(a) Any person may file a request to institute a proceeding pursuant to § 2.202 to modify, suspend, or revoke a license, or for such other action as may be proper. Such a request shall be addressed to the Executive Director for Operations and shall be filed either (1) by delivery to the Public Document Room at 2120 L Street, NW., Washington, DC, or (2) by mail or telegram addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The requests shall specify the action requested and set forth the facts that constitute the basis for the request. The Executive Director for Operations will refer the request to the Director of the NRC Office with responsibility for the subject matter of the request for appropriate action in accordance with paragraph (b) of this section.

(b) Within a reasonable time after a request pursuant to paragraph (a) of this section has been received, the Director of the NRC office with responsibility for the subject matter of the request shall either institute the requested proceeding in accordance with this subpart or shall advise the person who made the request in writing that no proceeding will be instituted in whole or in part, with respect to the request, and the reasons for the decision.

(c)(1) Director's decisions under this section will be filed with the Office of the Secretary. Within twenty-five (25) days after the date of the Director's decision under this section that no proceeding will be instituted or other action taken in whole or in part, the Commission may on its own motion review that decision, in whole or in part, to determine if the Director has abused his discretion. This review power does not limit in any way either the Commission's supervisory power over delegated staff actions or the Commission's power to consult with the staff on a formal or informal basis regarding institution of proceedings under this section.

(2) No petition or other request for Commission review of a Director's de-

cision under this section will be entertained by the Commission.

[39 FR 12353, Apr. 5, 1974, as amended at 42 FR 36240, July 14, 1977; 45 FR 73466, Nov. 5, 1980; 52 FR 31608, Aug. 21, 1987; 53 FR 43419, Oct. 27, 1988]

Subpart C [Reserved]

Subpart D—Additional Procedures Applicable to Proceedings for the Issuance of Licenses To Construct or Operate Nuclear Power Plants of Duplicate Design at Multiple Sites

SOURCE: 40 FR 2976, Jan. 17, 1975, unless otherwise noted.

§ 2.400 Scope of subpart.

This subpart describes procedures applicable to licensing proceedings which involve the consideration in hearings of a number of applications, filed by one or more applicants pursuant to appendix N of part 52 of this chapter, for licenses to construct and operate nuclear power reactors of essentially the same design to be located at different sites.

[40 FR 2976, Jan. 17, 1975, as amended at 54 FR 15398, Apr. 18, 1989]

§ 2.401 Notice of hearing on applications pursuant to appendix N of part 52 for construction permits.

(a) In the case of applications pursuant to appendix N of part 52 of this chapter for construction permits for nuclear power reactors of the type described in § 50.22 of this chapter, the Secretary will issue notices of hearing pursuant to § 2.104.

(b) The notice of hearing will also state the time and place of the hearings on any separate phase of the proceeding.

[40 FR 2976, Jan. 17, 1975, as amended at 54 FR 15398, Apr. 18, 1989]

§ 2.402 Separate hearings on separate issues; consolidation of proceedings.

(a) In the case of applications pursuant to appendix N of part 52 of this chapter for construction permits for

nuclear power reactors of a type described in § 50.22 of this chapter, the Commission or the presiding officer may order separate hearings on particular phases of the proceeding, such as matters related to the acceptability of the design of the reactor, in the context of the site parameters postulated for the design; environmental matters; or antitrust aspects of the application.

(b) If a separate hearing is held on a particular phase of the proceeding, the Commission or presiding officers of each affected proceeding may, pursuant to § 2.716, consolidate for hearing on that phase two or more proceedings to consider common issues relating to the applications involved in the proceedings, if it finds that such action will be conducive to the proper dispatch of its business and to the ends of justice. In fixing the place of any such consolidated hearing due regard will be given to the convenience and necessity of the parties, petitioners for leave to intervene or the attorneys or representatives of such persons, and the public interest.

[40 FR 2976, Jan. 17, 1975, as amended at 43 FR 17801, Apr. 26, 1978; 54 FR 15398, Apr. 18, 1989]

§ 2.403 Notice of proposed action on applications for operating licenses pursuant to appendix N of part 52.

In the case of applications pursuant to appendix N of part 52 of this chapter for operating licenses for nuclear power reactors, if the Commission has not found that a hearing is in the public interest, the Director of Nuclear Reactor Regulation will, prior to acting thereon, cause to be published in the FEDERAL REGISTER, pursuant to § 2.105, a notice of proposed action with respect to each application as soon as practicable after the applications have been docketed.

[40 FR 2976, Jan. 17, 1975, as amended at 54 FR 15398, Apr. 18, 1989]

§ 2.404 Hearings on applications for operating licenses pursuant to appendix N of part 52.

If a request for a hearing and/or petition for leave to intervene is filed within the time prescribed in the notice of proposed action on an application for an operating license pursuant to appen-

dix N of part 52 of this chapter with respect to a specific reactor(s) at a specific site and the Commission or an atomic safety and licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel has issued a notice of hearing or other appropriate order, the Commission or the atomic safety and licensing board may order separate hearings on particular phases of the proceeding and/or consolidate for hearing two or more proceedings in the manner described in § 2.402.

[40 FR 2976, Jan. 17, 1975, as amended at 54 FR 15398, Apr. 18, 1989]

§ 2.405 Initial decisions in consolidated hearings.

At the conclusion of any hearing held pursuant to this subpart, the presiding officer will render a partial initial decision which may be appealed pursuant to § 2.762. No construction permit or full power operating license will be issued until an initial decision has been issued on all phases of the hearing and all issues under the Act and the National Environmental Policy Act of 1969 appropriate to the proceeding have been resolved.

§ 2.406 Finality of decisions on separate issues.

Notwithstanding any other provision of this chapter, in a proceeding conducted pursuant to this subpart and appendix N of part 52 of this chapter, no matter which has been reserved for consideration in one phase of the hearing shall be considered at another phase of the hearing except on the basis of significant new information that substantially affects the conclusion(s) reached at the other phase or other good cause.

[40 FR 2976, Jan. 17, 1975, as amended at 54 FR 15398, Apr. 18, 1989]

§ 2.407 Applicability of other sections.

The provisions of subparts A and G relating to construction permits and operating licenses apply, respectively, to construction permits and operating licenses subject to this subpart, except as qualified by the provisions of this subpart.